

Bureau of Land Management, Interior

§ 2650.5-1

Miscellaneous easements may be reserved for the following purposes:

(1) Public easements which are for utility purposes (e.g., water, electricity, communications, oil, gas, and sewage) may be reserved and shall be based upon present existing use. Future easements for these purposes may also be reserved, but only if they are site specific and actually planned for construction within 5 years of the date of conveyance;

(2) Easements for air light or visibility purposes may be reserved if required to insure public safety or to permit proper use of improvements developed for public benefit or use; e.g., protection for aviation or navigation aids or communications sites;

(3) Public easements may be reserved to guarantee international treaty obligations or to implement any agreement entered into between the United States and the Native Corporation receiving the conveyance. For example, the agreement of May 14, 1974, related to Naval Petroleum Reserve Number Four (redesignated June 1, 1977, as the National Petroleum Reserve-Alaska) between the United States Department of the Navy and the Arctic Slope Regional Corporation and four Native village corporations, shall be incorporated in the appropriate conveyances and the easements necessary to implement the agreement shall be reserved.

(d) *Conveyance provisions.* (1) Public easement provisions shall be placed in interim conveyances and patents.

(2) Permissible uses of a specific easement shall be listed in the appropriate conveyance document. The conveyance documents shall include a general provision which states that uses which are not specifically listed are prohibited.

(3) The easements shall be identified on appropriate maps which shall be part of the pertinent interim conveyance and patent.

(4) All public easement shall be reserved to the United States and subject, as appropriate, to further Federal, State, or municipal corporation regulation.

(5) All conveyance documents shall contain a general provision which states that pursuant to section 17(b)(2) of the Act, any valid existing right recognized by the Act shall continue to

have whatever right of access as is now provided for under existing law.

[43 FR 55329, Nov. 27, 1978]

§ 2650.5 Survey requirements.

§ 2650.5-1 General.

(a) Selected areas are to be surveyed as provided in section 13 of the Act. Any survey or description used as a basis for conveyance must be adequate to identify the lands to be conveyed.

(b) The following procedures shall be used to determine what acreage is not to be charged against Native entitlement:

(1) For any approved plat of survey where meanderable water bodies were not segregated from the survey but were included in the calculation of acreage to be charged against the Native corporation's land entitlement, the chargeable acreage shall, at no cost to the Native corporation, be recalculated to conform to the principles contained in the Bureau of Land Management's *Manual of Surveying Instructions*, 1973, except as modified by this part. Pursuant to such principles, the acreage of meanderable water bodies, as modified by this part, shall not be included in the acreage charged against the Native corporation's land entitlement.

(2) For any plat of survey approved after December 5, 1983, water bodies shall be meandered and segregated from the survey in accordance with the principles contained in the Bureau of Land Management's *Manual of Surveying Instructions*, 1973, as modified by this part, as the basis for determining acreage chargeability.

(3) If title to lands beneath navigable waters, as defined in the Submerged Lands Act, of a lake less than 50 acres in size or a river or stream less than 3 chains in width did not vest in the State on the date of Statehood, such lake, river or stream shall not be meandered and shall be charged against the Native corporation's entitlement.

(4) Any determinations of meanders which may be made pursuant to this paragraph shall not require monumentation on the ground unless

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specifically required by law or for good cause in the public interest.

[38 FR 14218, May 30, 1973, as amended at 50 FR 15547, Apr. 19, 1985]

§ 2650.5-2 Rule of approximation.

To assure full entitlement, the rule of approximation may be applied with respect to the acreage limitations applicable to conveyances and surveys under this authority, i.e., any excess must be less than the deficiency would be if the smallest legal subdivision were eliminated (see 62 I.D. 417, 421).

§ 2650.5-3 Regional surveys.

Lands to be conveyed to a regional corporation, when selected in contiguous units, shall be grouped together for the purpose of survey and surveyed as one tract, with monuments being established on the exterior boundary at angle points and at intervals of approximately 2 miles on straight lines. If requested by the grantee, the Secretary may survey, insofar as practicable, the individual selections that comprise the total tract.

§ 2650.5-4 Village surveys.

(a) Only the exterior boundaries of contiguous entitlements for each village corporation will be surveyed. Where land within the outer perimeter of a selection is not selected, the boundaries along the area excluded shall be deemed exterior boundaries. The survey will be made after the total acreage entitlement of the village has been selected.

(b) Surveys will be made within the village corporation selections to delineate those tracts required by law to be conveyed by the village corporations pursuant to section 14(c) of the Act.

(c) (1) The boundaries of the tracts described in paragraph (b) of this section shall be posted on the ground and shown on a map which has been approved in writing by the affected village corporation and submitted to the Bureau of Land Management. Conflicts arising among potential transferees identified in section 14(c) of the Act, or between the village corporation and such transferees, will be resolved prior to submission of the map. Occupied lots to be surveyed will be those which were occupied as of December 18, 1971.

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(2) Lands shown by the records of the Bureau of Land Management as not having been conveyed to the village corporation will be excluded by adjustments on the map by the Bureau of Land Management. No surveys shall begin prior to final written approval of the map by the village corporation and the Bureau of Land Management. After such written approval, the map will constitute a plan of survey. Surveys will then be made in accordance with the plan of survey. No further changes will be made to accommodate additional section 14(c) transferees, and no additional survey work desired by the village corporation or municipality within the area covered by the plan of survey or immediately adjacent thereto will be performed by the Secretary.

§ 2650.5-5 Cemetery sites and historical places.

Only those cemetery sites and historical places to be conveyed under section 14(h)(1) of the Act shall be surveyed.

§ 2650.5-6 Adjustment to plat of survey.

All conveyances issued for lands not covered by officially approved surveys of the Bureau of Land Management shall note that upon the filing of an official plat of survey, the boundary of the selected area, described in terms of protraction diagrams or by metes and bounds, shall be redescribed in accordance with the plats of survey. However, no change will be made in the land selected.

§ 2650.6 Selection limitations.

(a) Notwithstanding any other provisions of the act, no village or regional corporation may select lands which are within 2 miles from the boundary of any home rule or first-class city (excluding boroughs) as the boundaries existed and the cities were classified on December 18, 1971, or which are within 6 miles from the boundary of Ketchikan, except that a village corporation organized by Natives of a community which is itself a first class or home-rule city is not prohibited from making selections within 2 miles from the boundary of that first class or home-rule city, unless such selections fall